

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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NML CAPITAL, LTD.,

Plaintiff,

09 Civ. 7013 (TPG)

- against -

ENERGÍA ARGENTINA S.A. and
THE REPUBLIC OF ARGENTINA,

NOTICE OF MOTION

Defendants.
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PLEASE TAKE NOTICE that, upon the complaint, the accompanying Declaration of Martin Domb dated August 6, 2010, the accompanying memorandum of law, and all prior proceedings in this action, defendant Energía Argentina S.A. (“ENARSA”) will move this Court, before the Honorable Thomas P. Griesa, in Courtroom 26B of the U.S. Courthouse, at 500 Pearl Street, New York, New York 10007, pursuant to the schedule set forth in Local Civil Rule 6.1, or such other schedule as the parties may agree to with the Court’s consent or as the Court may determine, for an order:

(a) pursuant to the Foreign Sovereign Immunities Act of 1976, 28 U.S.C. §§ 1602-1611 (the “FSIA”), 28 U.S.C. § 1330(a) and (b), and Federal Rule of Civil Procedure 12(b)(1) and 12(b)(2), dismissing all claims alleged in this action against ENARSA on the ground that ENARSA is an agency or instrumentality of a foreign state which is entitled to and has not waived immunity under the FSIA, and accordingly the Court lacks subject-matter and personal jurisdiction over such claims,

(b) pursuant to Federal Rules of Civil Procedure 8(a)(2) and 12(b)(6), dismissing all claims alleged in this action against ENARSA on the ground that the complaint fails to meet the

pleading requirements of Rule 8(a)(2) and fails to state a claim based on the alter ego theory upon which relief can be granted, and

(c) for such other relief as the Court deems just and proper.

Dated: August 6, 2010

AKERMAN SENTERFITT LLP

s/ Martin Domb

By:

Carlos Mendez-Peñate
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